

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA :
:
- v. - : S1 23 Cr. 251 (AKH)
:
CHARLIE JAVICE and :
OLIVIER AMAR, :
:
Defendants. :
:
----- X

**THE GOVERNMENT'S OPPOSITION
TO JAVICE'S MOTION TO COMPEL A COPY OF THE FRANK WEBSITE**

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Authority Conferred by 28 U.S.C. § 515

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- Of Counsel -

The Government respectfully writes in opposition to defendant Charlie Javice's motion to compel. Dkt. 200 ("Javice Motion"). The defendant requests "an Order compelling the Government to produce true and accurate archived copies of the Frank Website." *Id.* at 1. The Court should deny the motion. The Government produced the only copy of a Frank webpage in its possession more than 18 months ago. The Government does not, and has never, possessed any other copies of pages from Frank's website. *See, e.g., United States v. Avenatti*, No. 19-CR-374 (JMF), 2022 WL 457315, at *1 (S.D.N.Y. Feb. 15, 2022) ("[T]he Government's disclosure obligations extend only to evidence or information in the possession of the 'prosecution team' — those involved in the prosecution at issue — and the Servers are not, and have never been, in the possession of the prosecution team."); Dkt. 61 (Nov. 7, 2023 Order Regulating Proceedings) at 1 (denying defendant Javice's earlier motion to compel while finding that "JPMC, although the victim of defendants' alleged fraud, is not part of the government's prosecution team"). Asserting otherwise, the defendant points to a reference in the Complaint to "'an archived snapshot of Frank's website,'" and appears to assume that the Government itself archived Frank's website in some global manner. Javice Motion at 4 (quoting Dkt. 1). The "archived snapshot" referenced in the Complaint, however, was a webpage from the publicly available Internet Archive,¹ not a full copy of Frank's website that the Government had created and thus now possesses.² Accordingly,

¹ *See* <https://archive.org/about/> ("The Internet Archive, a 501(c)(3) non-profit, is building a digital library of Internet sites and other cultural artifacts in digital form.").

² As noted above, a copy of the Internet Archive webpage referenced in the Complaint, which the Government had saved as a ".pdf" file, was produced to the defendant as Rule 16 discovery over 18 months ago, on June 6, 2023. Had the defendant followed up with the Government prior to filing her motion to compel, the Government would have confirmed that it does not possess a copy of the Frank website.

because the Government does not possess a copy of Frank's website, the Court should deny the defendant's motion to compel.

CONCLUSION

For the foregoing reasons, the defendant's motion to compel should be denied.

Dated: New York, New York
January 16, 2025

Respectfully submitted,

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